

110TH CONGRESS
2D SESSION

H. R. 6493

IN THE SENATE OF THE UNITED STATES

JULY 23, 2008

Received; read twice and referred to the Committee on Commerce, Science,
and Transportation

AN ACT

To amend title 49, United States Code, to enhance aviation
safety.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Aviation Safety En-
3 hancement Act of 2008”.

4 **SEC. 2. AVIATION SAFETY WHISTLEBLOWER INVESTIGA-**
5 **TION OFFICE.**

6 Section 106 of title 49, United States Code, is
7 amended by adding at the end the following:

8 “(s) AVIATION SAFETY WHISTLEBLOWER INVES-
9 TIGATION OFFICE.—

10 “(1) ESTABLISHMENT.—There is established in
11 the Federal Aviation Administration (in this section
12 referred to as the ‘Agency’) an Aviation Safety
13 Whistleblower Investigation Office (in this sub-
14 section referred to as the ‘Office’).

15 “(2) DIRECTOR.—

16 “(A) APPOINTMENT.—The head of the Of-
17 fice shall be the Director, who shall be ap-
18 pointed by the Secretary of Transportation.

19 “(B) QUALIFICATIONS.—The Director
20 shall have a demonstrated ability in investiga-
21 tions and knowledge of or experience in avia-
22 tion.

23 “(C) TERM.—The Director shall be ap-
24 pointed for a term of 5 years.

25 “(D) VACANCY.—Any individual appointed
26 to fill a vacancy in the position of the Director

1 occurring before the expiration of the term for
2 which the individual's predecessor was ap-
3 pointed shall be appointed for the remainder of
4 that term.

5 “(3) COMPLAINTS AND INVESTIGATIONS.—

6 “(A) AUTHORITY OF DIRECTOR.—The Di-
7 rector shall—

8 “(i) receive complaints and informa-
9 tion submitted by employees of persons
10 holding certificates issued under title 14,
11 Code of Federal Regulations, and employ-
12 ees of the Agency concerning the possible
13 existence of an activity relating to a viola-
14 tion of an order, regulation, or standard of
15 the Agency or any other provision of Fed-
16 eral law relating to aviation safety;

17 “(ii) assess complaints and informa-
18 tion submitted under clause (i) and deter-
19 mine whether a substantial likelihood ex-
20 ists that a violation of an order, regulation,
21 or standard of the Agency or any other
22 provision of Federal law relating to avia-
23 tion safety may have occurred; and

24 “(iii) based on findings of the assess-
25 ment conducted under clause (ii), make

1 recommendations to the Administrator in
2 writing for further investigation or correc-
3 tive actions.

4 “(B) DISCLOSURE OF IDENTITIES.—The
5 Director shall not disclose the identity of an in-
6 dividual who submits a complaint or informa-
7 tion under subparagraph (A)(i) unless—

8 “(i) the individual consents to the dis-
9 closure in writing; or

10 “(ii) the Director determines, in the
11 course of an investigation, that the disclo-
12 sure is unavoidable.

13 “(C) INDEPENDENCE OF DIRECTOR.—The
14 Secretary, the Administrator, or any officer or
15 employee of the Agency may not prevent or pro-
16 hibit the Director from initiating, carrying out,
17 or completing any assessment of a complaint or
18 information submitted subparagraph (A)(i) or
19 from reporting to Congress on any such assess-
20 ment.

21 “(D) ACCESS TO INFORMATION.—In con-
22 ducting an assessment of a complaint or infor-
23 mation submitted under subparagraph (A)(i),
24 the Director shall have access to all records, re-
25 ports, audits, reviews, documents, papers, rec-

ommendations, and other material necessary to determine whether a substantial likelihood exists that a violation of an order, regulation, or standard of the Agency or any other provision of Federal law relating to aviation safety may have occurred.

“(4) RESPONSES TO RECOMMENDATIONS.—The Administrator shall respond to a recommendation made by the Director under subparagraph (A)(iii) in writing and retain records related to any further investigations or corrective actions taken in response to the recommendation.

“(5) INCIDENT REPORTS.—If the Director determines there is a substantial likelihood that a violation of an order, regulation, or standard of the Agency or any other provision of Federal law relating to aviation safety may have occurred that requires immediate corrective action, the Director shall report the potential violation expeditiously to the Administrator and the Inspector General of the Department of Transportation.

“(6) REPORTING OF CRIMINAL VIOLATIONS TO INSPECTOR GENERAL.—If the Director has reasonable grounds to believe that there has been a violation of Federal criminal law, the Director shall re-

1 port the violation expeditiously to the Inspector Gen-
2 eral.

3 “(7) ANNUAL REPORTS TO CONGRESS.—Not
4 later than October 1 of each year, the Director shall
5 submit to Congress a report containing—

6 “(A) information on the number of submis-
7 sions of complaints and information received by
8 the Director under paragraph (3)(A)(i) in the
9 preceding 12-month period;

10 “(B) summaries of those submissions;

11 “(C) summaries of further investigations
12 and corrective actions recommended in response
13 to the submissions; and

14 “(D) summaries of the responses of the
15 Administrator to such recommendations.”.

16 **SEC. 3. MODIFICATION OF CUSTOMER SERVICE INITIATIVE.**

17 (a) FINDINGS.—Congress finds the following:

18 (1) Subsections (a) and (d) of section 40101 of
19 title 49, United States Code, directs the Federal
20 Aviation Administration (in this section referred to
21 as the “Agency”) to make safety its highest pri-
22 ority.

23 (2) In 1996, to ensure that there would be no
24 appearance of a conflict of interest for the Agency
25 in carrying out its safety responsibilities, Congress

1 amended section 40101(d) of such title to remove
2 the responsibilities of the Agency to promote air-
3 lines.

4 (3) Despite these directives from Congress re-
5 garding the priority of safety, the Agency issued a
6 vision statement in which it stated that it has a “vi-
7 sion” of “being responsive to our customers and ac-
8 countable to the public” and, in 2003, issued a cus-
9 tomer service initiative that required aviation inspec-
10 tors to treat air carriers and other aviation certifi-
11 cate holders as “customers” rather than regulated
12 entities.

13 (4) The initiatives described in paragraph (3)
14 appear to have given regulated entities and Agency
15 inspectors the impression that the management of
16 the Agency gives an unduly high priority to the sat-
17 isfaction of regulated entities regarding its inspec-
18 tion and certification decisions and other lawful ac-
19 tions of its safety inspectors.

20 (5) As a result of the emphasis on customer
21 satisfaction, some managers of the Agency have dis-
22 couraged vigorous enforcement and replaced inspec-
23 tors whose lawful actions adversely affected an air
24 carrier.

1 (b) MODIFICATION OF INITIATIVE.—Not later than
2 90 days after the date of enactment of this Act, the Ad-
3 ministrator of the Federal Aviation Administration shall
4 modify the customer service initiative, mission and vision
5 statements, and other statements of policy of the Agen-
6 cy—

7 (1) to remove any reference to air carriers or
8 other entities regulated by the Agency as “cus-
9 tomers”;

10 (2) to clarify that in regulating safety the only
11 customers of the Agency are individuals traveling on
12 aircraft; and

13 (3) to clarify that air carriers and other entities
14 regulated by the Agency do not have the right to se-
15 lect the employees of the Agency who will inspect
16 their operations.

17 (c) SAFETY PRIORITY.—In carrying out the Adminis-
18 trator’s responsibilities, the Administrator shall ensure
19 that safety is given a higher priority than preventing the
20 dissatisfaction of an air carrier or other entity regulated
21 by the Agency with an employee of the Agency.

1 **SEC. 4. POST-EMPLOYMENT RESTRICTIONS FOR FLIGHT**
2 **STANDARDS INSPECTORS.**

3 (a) IN GENERAL.—Section 44711 of title 49, United
4 States Code, is amended by adding at the end the fol-
5 lowing:

6 “(d) POST-EMPLOYMENT RESTRICTIONS FOR
7 FLIGHT STANDARDS INSPECTORS.—

8 “(1) PROHIBITION.—A person holding an oper-
9 ating certificate issued under title 14, Code of Fed-
10 eral Regulations, may not knowingly employ, or
11 make a contractual arrangement which permits, an
12 individual to act as an agent or representative of the
13 certificate holder in any matter before the Federal
14 Aviation Administration (in this subsection referred
15 to as the ‘Agency’) if the individual, in the preceding
16 2-year period—

17 “(A) served as, or was responsible for over-
18 sight of, a flight standards inspector of the
19 Agency; and

20 “(B) had responsibility to inspect, or over-
21 see inspection of, the operations of the certifi-
22 cate holder.

23 “(2) WRITTEN AND ORAL COMMUNICATIONS.—
24 For purposes of paragraph (1), an individual shall
25 be considered to be acting as an agent or representa-
26 tive of a certificate holder in a matter before the

13 SEC. 5. ASSIGNMENT OF PRINCIPAL SUPERVISORY INSPEC-
14 TORS.

(b) TRANSITIONAL PROVISION.—An individual serving as a principal supervisory inspector of the Agency with respect to an air carrier as of the date of enactment of this Act may be responsible for overseeing the operations of the carrier until the last day of the 5-year period speci-

1 fied in subsection (a) or last day of the 2-year period be-
 2 ginning on such date of enactment, whichever is later.

3 (c) ISSUANCE OF ORDER.—Not later than 30 days
 4 after the date of enactment of this Act, the Administrator
 5 of the Federal Aviation Administration shall issue an
 6 order to carry out this section.

7 (d) AUTHORIZATION OF APPROPRIATIONS.—There
 8 are authorized to be appropriated to the Administrator
 9 such sums as may be necessary to carry out this section.

10 **SEC. 6. HEADQUARTERS REVIEW OF AIR TRANSPORTATION**
 11 **OVERSIGHT SYSTEM DATABASE.**

12 (a) REVIEWS.—The Administrator of the Federal
 13 Aviation Administration shall establish a process by which
 14 the air transportation oversight system database of the
 15 Federal Aviation Administration (in this section referred
 16 to as the “Agency”) is reviewed by a team of employees
 17 of the Agency on a monthly basis to ensure that—

18 (1) any trends in regulatory compliance are
 19 identified; and

20 (2) appropriate corrective actions are taken in
 21 accordance with Agency regulations, advisory direc-
 22 tives, policies, and procedures.

23 (b) MONTHLY TEAM REPORTS.—

24 (1) IN GENERAL.—The team of employees con-
 25 ducting a monthly review of the air transportation

1 oversight system database under subsection (a) shall
2 submit to the Administrator, the Associate Adminis-
3 trator for Aviation Safety, and the Director of
4 Flight Standards a report on the results of the re-
5 view.

6 (2) CONTENTS.—A report submitted under
7 paragraph (1) shall identify—

8 (A) any trends in regulatory compliance
9 discovered by the team of employees in con-
10 ducting the monthly review; and

11 (B) any corrective actions taken or pro-
12 posed to be taken in response to the trends.

13 (c) QUARTERLY REPORTS TO CONGRESS.—The Ad-
14 ministrator, on a quarterly basis, shall submit to the Com-
15 mittee on Transportation and Infrastructure of the House
16 of Representatives and the Committee on Commerce,
17 Science, and Transportation of the Senate a report on the
18 results of reviews of the air transportation oversight sys-
19 tem database conducted under this section, including cop-
20 ies of reports received under subsection (b).

Passed the House of Representatives July 22, 2008.

Attest: LORRAINE C. MILLER,
Clerk.